THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.17596 of 2006

Dated:01st September, 2006

Between:

A.Srinivasulu. **…..PETITIONER**

AND

The Commissioner for Workmens
Compensation and Assistant Commissioner
for Labour, Mahaboobnagar, Mahaboobnagar
District and 3 others. **….RESPONDENTS**

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P.No.17596 of 2006

ORDER:

This writ petition in the nature of Prohibition is filed questioning the jurisdiction of the 1st respondent in entertaining the claim petition in W.C.No.12 of 2006 filed by the respondents 2 to 4, and consequently to direct the 1st respondent to transfer W.C.No.12 of 2006 to the Commissioner for Workmen's Compensation and Assistant Commissioner for Labour, Tirupati, Chittoor District.

The petitioner is A-Class civil contractor having a registered office at Chittoor. The wife of the 2nd respondent and mother of respondents 3 and 4 by name Jammulamma, on 18-6-2005, while carrying the work as coolie died due to sudden collapse of the wall on her. The respondents 2 to 4 filed a claim petition in W.C.No.12 of 2006 seeking compensation of Rs.4 lakhs before the 1st respondent, which has become the subject matter of the writ petition with regard to its maintainability.

Learned counsel for the petitioner submitted that the claim petition filed before the 1st respondent/Commissioner for Workmens

Compensation and Assistant Commissioner for Labour, Mahaboobnagar is not maintainable for lack of territorial jurisdiction inasmuch as the incident has occurred at Chittoor and the office of the petitioner is at Chittoor.

Learned counsel for the respondents submitted that Section 21 (a) of the Workmen's Compensation Act, 1923 stipulates that in case of the death of workman his defendants can file the claim petition at the place where they reside. The learned counsel therefore prayed that the claim petition filed by the respondents at Mahaboobnagar claiming compensation is within the jurisdiction and is maintainable.

Heard the learned counsel for the petitioner as also the learned counsel for the respondents and perused Section 21 of the Workmen's Compensation Act, 1923 (for short the Act).

Section 21 of the Act reads as under:

> "21) Venue of proceedings and transfer:-
>
> (1) Where any matter under this Act is to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the area in which---
>
> (a) the accident took place which resulted in the injury; or
>
> (b) the workman or in case of his death, the dependant claiming the compensation ordinarily resides; or
>
> (c) the employer has his registered office."

A reading of Section 21 (a) of the Act would make it clear that in case of death of the workman the defendant claiming the compensation can file the claim petition at the place where he resides. In the instant case the dependants of the workman are the residents of Mahaboobnagar and they being the residents of Mahaboobnagar

rightly filed the claim petition before the

1st respondent at Mahaboobnagar. In view of specific provision under Section 21 (a) of the Act providing the dependant of the deceased workman to file claim petition at the place where he resides, as is done in the instant case, the contention of the petitioner that the claim petition before the 1st respondent is not maintainable because of lack of territorial jurisdiction cannot be accepted, and the same is rejected.

The learned counsel for the petitioner now submitted that as per proviso to Section 21 of the Act the commissioner shall not proceed with the matter without giving notice and in the instant case the commissioner has not issued any such notice before proceeding with the matter. The petitioner can take this objection before the 1st respondent and when the petitioner raises such an objection, the 1st respondent may consider the same.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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(N.V. RAMANA, J.)

Date:01st September, 2006.

GRK